

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PAULINE PIPITONE, individually and as the
administrator of the estate of NICHOLAS GUIDO,

Plaintiff,

Civil Action No.
CV 06-0145 (DGT)(JMA)(lead case)
& Consolidated Cases

v.

CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, STEPHEN CARACAPPA and
LOUIS EPPOLITO,

Defendants.

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**STIPULATION AND ORDER FOR THE
PROTECTION OF CONFIDENTIAL DOCUMENTS**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys of record for all parties to the above-captioned action, together with LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, Orelia E. Merchant, Assistant United States Attorney, of counsel, a non-party, that:

WHEREAS, this is an action asserting claims of constitutional violations pursuant to 42 U.S.C. § 1983;

WHEREAS, the parties seek to discover certain information or documents maintained by the United States Attorney's Office, Eastern District of New York ("USAO-EDNY"), which have not been made available to the general public and which the USAO-EDNY contends are protected from disclosure by the Privacy Act of 1974, 5 U.S.C. § 552a; and

WHEREAS, in order to permit the parties to discover information relevant to the

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subject matter of this case without making this information public and potentially undermining the purpose of the Privacy Act, the parties, together with USAO-EDNY, have agreed on the terms of this Stipulated Protective Order, pursuant to 5 U.S.C. § 552a(b)(11) and Rule 26(c) of the Federal Rules of Civil Procedure, for the purpose of assuring the confidentiality of such information.

IT IS NOW HEREBY STIPULATED, AGREED, AND ORDERED:

1. As used in this Stipulated Protective Order, the term “Confidential Information” constitutes any and all documents: (a) in the possession of the USAO-EDNY; (b) to be produced in response to the City of New York and New York Police Department’s *Touhy*¹ requests, dated June 11, 2010, or subsequent modified requests; and (c) that have not been available to the general public and are protected from disclosure by the Privacy Act.

2. Any information that the USAO-EDNY deems to be “Confidential Information” shall be stamped as “Confidential” prior to production.

3. The confidential information shall be used by the parties and their counsel, and shall not be published to the general public in any form, nor used for any business or commercial purpose.

4. The right of access to all materials designated Confidential Information as subject to this Order shall be limited to authorized individuals: the parties, counsel for the parties and paralegal, secretarial and clerical personnel in their employ; court reporters or stenographers engaged to record deposition testimony; and other mutually agreed upon by counsel for the parties and the

¹ See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462, 468 (1951).

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USAO-EDNY, or as may be authorized by the Court.

5. The parties and their respective counsel shall not disclose Confidential Information subject to this Order to any unauthorized person without further order of the Court or stipulated order by the parties and the USAO-EDNY.

6. Prior to disclosure of any "Confidential Information" or any documents containing such information, the disclosing party and/or counsel for the disclosing party shall ensure that the person to whom such disclosure is made has been informed of the terms of this Order and understands that he or she is bound by such terms. No person to whom Confidential Information has been disclosed shall, in turn, disclose the Confidential Information or any documents containing such information other than pursuant to the terms of this Order.

7. Each person to whom the Confidential Information or any documents containing that information are disclosed shall:

- (a) maintain documents containing the Confidential Information in a secure location;
- (b) not reveal the Confidential Information to any person not authorized by and already subject to the terms of this Order; and
- (c) not reveal or use the Confidential Information except for the purpose of assisting the parties and their counsel in preparing and litigating this action.

8. All information subject to confidential treatment in accordance with the terms of this Order and any pleadings, motions, or other papers to be filed with the Court disclosing any Confidential Information, shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and designated "Confidential."

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9. Nothing in this Order shall preclude any disclosure of Confidential Information subject to this Order to any judge, magistrate, or employee of the Court for purposes of this action, or preclude a party from offering such documents into evidence at the trial of this action.

10. No copies of Confidential Information shall be made except at each parties' own expense and only to the extent necessary for the preparation of this action for trial.

11. All documents designated as Confidential Information subject to this Order shall be, within sixty (60) days of a final judgment in this action, either returned to the producing party or certified to have been destroyed.

12. This Order is without prejudice to the rights of any party to apply to the Court for a further protective order relating to any Confidential Information or to make any discovery objections permitted by the Federal Rules of Civil Procedure, or any statute or other authority.

13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.


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14. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

Dated: Brooklyn, New York
July 1, 2011

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
271 Cadman Plaza East, 7th Floor
Brooklyn, New York 11201

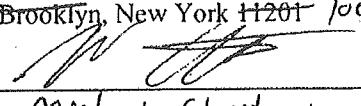
By:


ORELIA E. MERCHANT (OM 1717)
Assistant U.S. Attorney
(718) 254-6058

Dated: Brooklyn, New York
_____, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorneys for defendants City of New York,
New York City Police Department
New York City Police Department
New York City Police Department
Brooklyn, New York 11201 10007

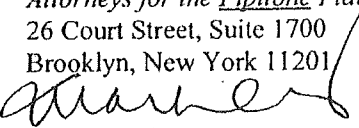
By:


Michael Chestnov
Assistant Corporation Counsel
(212) 254-6058 788-0991

Dated: Brooklyn, New York
_____, 2011

Longo & D'Apice
Attorneys for the Pipitone Plaintiffs
26 Court Street, Suite 1700
Brooklyn, New York 11201

By:


Mark A. Longo, Esq.

Pipitone v. City of New York, CV-06-0145(DGT)(JMA)(Lead Case) & Consolidated Cases
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Dated: New York, New York

May 24, 2011

O'Dwyer and Bernstein, LLP
Attorneys for the Bishop Plaintiffs
52 Duane Street, 5th Floor
New York, New York 10007

By: Cody McCone for O'D & B
Cody McCone, Esq.

Dated: New York, New York

_____, 2011

~~Bienenfeld & Associates~~ Newfeld Schuck & Bruns
Attorneys for the Greenwald, DiLapi and
Facciolo Plaintiffs
26 Broadway, 21st Flr.
New York, New York 10004

By: Saul Bienenfeld
Saul Bienenfeld, Esq. Elena Freudenberg, Esq.

Dated: New York, New York

_____, 2011

Attorneys for the Porriello Plaintiffs
255 West 36th Street, Suite 1104
New York, New York 10018

By: Andrew C. Laufer
Andrew C. Laufer, Esq.

Dated: Melville, New York

May 24, 2011

Law Office of Michaelangelo Matera
Attorneys for the Lino Plaintiffs
560 Broadhollow Road, Suite 106
Melville, New York 11747

By: Michaelangelo Matera
Michaelangelo Matera, Esq.

Dated: Brooklyn, New York

_____, 2011

Law Offices of Barry E. Schulman
Attorneys for the Morris Plaintiffs
16 Court Street - Suite 2901
Brooklyn, New York 11241

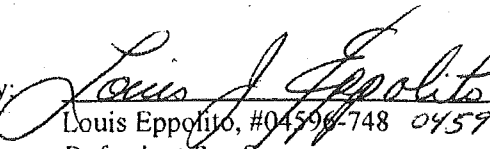
By: Deborah A. Santelmo
Deborah A. Santelmo, Esq.

Pipitone v. City of New York, CV-06-0145(DGT)(JMA)(Lead Case) & Consolidated Cases
Confidentiality & Protective Order

Dated: Tucson, Arizona

JUNE 13,, 2011

By:


Louis Eppolito, #04596-748 ~~04596-748~~ 04596-748
Defendant Pro Se
USP Tucson
U.S. Penitentiary
P.O. Box 24550
Tucson, AZ 85734

Dated: Adelanto, California

_____, 2011

By:

Stephen Caracappa, #04597-748
Defendant Pro Se
USP Victorville
U.S. Penitentiary
P.O. Box 5300
Adelanto, CA 92301

SO ORDERED this

_____ day of _____, 2010

HONORABLE JOAN M. AZRACK
United States Magistrate Judge

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Dated: Tucson, Arizona
_____, 2011

By: _____

Louis Eppolito, #04596-748
Defendant Pro Se
USP Tucson
U.S. Penitentiary
P.O. Box 24550
Tucson, AZ 85734

Atwater (SE)
Dated: Adelanto, California
June 15, 2011

By: _____

Stephen Caracappa
Stephen Caracappa, #04597-748
Defendant Pro Se
USP Victorville *Atwater*
U.S. Penitentiary
~~P.O. Box 5300~~ *P.O. Box 019006*
~~Adelanto, CA 92301~~ *Atwater CA*

95301

SO ORDERED this

_____ day of _____, 2010

HONORABLE JOAN M. AZRACK
United States Magistrate Judge